

1 RAOUL D. KENNEDY (STATE BAR NO. 40892)

Raoul.Kennedy@skadden.com

2 RICHARD S. HORVATH, JR. (STATE BAR NO. 254681)

Richard.Horvath@skadden.com

3 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

525 University Avenue, Suite 1100

4 Palo Alto, California 94301

Telephone: (650) 470-4500

5 Facsimile: (650) 470-4570

6 PAUL M. ECKLES (STATE BAR NO. 181156)

Paul.Eckles@skadden.com

7 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

4 Times Square

8 New York, New York 10036

Telephone: (212) 735-3000

9 Facsimile: (212) 735-2000

10 Attorneys for Specially Appearing Defendant

HARPERCOLLINS PUBLISHERS L.L.C.

11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
SAN FRANCISCO DIVISION

14 STEVEN RIVERS, on behalf of himself and)
15 all others similarly situated,)

16 Plaintiff,)

17 vs.)

18 MACMILLAN, SIMON & SCHUSTER,)
19 HACHETTE BOOK GROUP,)
20 HARPERCOLLINS PUBLISHERS,)
21 PENGUIN GROUP (USA) INC., and APPLE)
22 INC.)

23 Defendants.)
24)
25)
26)
27)
28)

CASE NO. 3:11-cv-05080-EMC

**STIPULATION AND [PROPOSED]
ORDER TO EXTEND TIME TO
RESPOND TO COMPLAINT**

STIPULATION AND [PROPOSED ORDER]
TO EXTEND TIME TO RESPOND TO COMPLAINT

WHEREAS, there have been multiple actions related to this case filed in both the Northern District of California and the Southern District of New York (the "Actions");

WHEREAS, the Court has entered an order in one of the related actions, *Petru, et al. v. Apple, Inc., et al.* (11-cv-3892 N.D. Cal.) (the "*Petru* Action"), to extend the time to answer, move or otherwise respond to the complaint until December 15, 2011, without prejudice to the right of any party to seek a further adjustment to the schedule;

WHEREAS, for efficiency and convenience of the parties, defendants Hachette Book Group, Inc., HarperCollins Publishers L.L.C. (incorrectly sued as "HarperCollins Publishers"), Holtzbrinck Publishers, LLC d/b/a Macmillan (incorrectly sued as "Macmillan"), Penguin Group (USA) Inc., Simon & Schuster, Inc., and Apple, Inc. (collectively, "Defendants") have agreed to waive the service of summons and complaint pursuant to Fed. R. Civ. P. 4(d);

WHEREAS, the parties have agreed that the response date in this action should not come prior to the response date in the *Petru* Action;

WHEREAS, Plaintiff agrees that submission of this stipulation should be without prejudice to any defense of Defendants;

WHEREAS, there have been no other modifications to Defendants' time to answer, move or otherwise respond to the complaint in this action;

WHEREAS, this stipulation to extend the time within which Defendants have to answer, move or otherwise respond to the complaint in this action will not alter the date of any event or any deadline already fixed by Court order;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiff and Defendants, as follows:

1. Defendants hereby agree to accept service of the summons and complaint in the above-captioned action;

2. Pursuant to Civil Local Rules 6-1, 6-2 and 7-12, Defendants' time to answer, move or otherwise respond to the complaint is hereby extended to December 15, 2011, without

1 prejudice to the right of any party to seek a further adjustment to the response date based on future
2 developments;

3 3. If any of the Defendants that is a party to this stipulation responds to a
4 complaint in any of the Actions prior to the time provided in this stipulation, Defendants will
5 respond to the complaint in this action at the same time;

6 4. No defense of Defendants is prejudiced or waived by their submission of this
7 stipulation; and

8 5. Defense counsel may file notices of appearance in this action without
9 prejudice to their respective clients' jurisdictional or venue defenses.

10 DATED: October 31, 2011

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

11
12 By: /s/ Raoul D. Kennedy

13 RAOUL D. KENNEDY

14 525 University Ave., Suite 1100
15 Palo Alto, California 94301
16 Telephone: (650) 470-4500
Facsimile: (650) 470-4570

17 Attorneys for Specially Appearing Defendant
HARPERCOLLINS PUBLISHERS L.L.C.

18 I, Raoul D. Kennedy, am the ECF User whose ID and password are being used to file this
19 Stipulation and [Proposed] Order to Extend Time To Respond To Complaint. In compliance with
General Order 45, X.B., I attest that each of the following signatories has concurred in this filing.

20 SHEARMAN & STERLING LLP

21
22 By: /s/ James Donato

23 JAMES DONATO

24 Four Embarcadero Center, Suite 3800
25 San Francisco, California 94111
26 Telephone: (415) 616-1100
27 Facsimile: (415) 616-1199

28 Attorneys for Specially Appearing Defendant
HACHETTE BOOK GROUP, INC.

1 SIDLEY AUSTIN LLP

2
3 By: /s/ Samuel R. Miller
4 SAMUEL R. MILLER

5 555 California Street
6 San Francisco, California 94104
7 Telephone: (415) 772-1200
8 Facsimile: (415) 772-7400

9 Attorneys for Specially Appearing Defendant
10 HOLTZBRINCK PUBLISHERS, LLC
11 D/B/A MACMILLAN

12 AKIN GUMP STRAUSS HAUER & FELD LLP

13 By: /s/ Reginald D. Steer
14 REGINALD D. STEER

15 580 California Street, Suite 1500
16 San Francisco, California 94104-1036
17 Telephone: (415) 765-9520
18 Facsimile: (415) 765-9501

19 Attorneys for Specially Appearing Defendant
20 PENGUIN GROUP (USA) INC.

21 WEIL, GOTSHAL & MANGES LLP

22 By: /s/ Gregory D. Hull
23 GREGORY D. HULL

24 201 Redwood Shores Parkway
25 Redwood Shores, California 94065
26 Telephone: (650) 802-3000
27 Facsimile: (650) 802-3100

28 Attorneys for Specially Appearing Defendant
SIMON & SCHUSTER, INC.

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Daniel S. Floyd

DANIEL S. FLOYD

333 South Grand Avenue
Los Angeles, CA 90071-3197
Telephone: (213) 229-7148
Facsimile: (213) 229-7520

Attorneys for Specially Appearing Defendant
APPLE INC.

GIRARD GIBBS LLP

By: /s/ Amy M. Zeman

AMY M. ZEMAN

601 California St.
14th Floor
San Francisco, CA 94108
Telephone: (415) 981-4800
Facsimile: (415) 981-4846

Attorneys for Plaintiff

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 11/2, 2011

By: _____

